

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

In Re: SUSAN A. PENLAND,

Debtor .

CASE NO.: 17-01530 jtg
HON. JOHN T. GREGG
CHAPTER 13

**DEBTOR'S RESPONSE TO TRUSTEE'S 12/3/2020 MOTION TO DISMISS
THE CHAPTER 13 PROCEEDING AND NOTICE OF
MOTION PURSUANT TO 11 U.S.C. 1307(c)**

NOW COMES the Debtor, by and through her attorneys, Stariha Law Offices P.C. and for her Response to Trustee's 12/3/2020 Motion to Dismiss the Chapter 13 Proceeding and Notice of Motion Pursuant to 11 U.S.C. 1307(c) says:

1. In response to the Trustee's allegations that there has been a material default by the debtor with respect to a term of a confirmed plan, the Debtor admits that allegation in part for the reason that, primarily due to the economic effects of the Covid 19 pandemic, Debtor has been unable to generate sufficient income from her business operations to make the monthly payments due pursuant to her Chapter 13 Plan as amended by Debtor's Debtor's Second Post-Confirmation Amendment to her Chapter 13 Plan, dated September 15, 2020.
2. That by way of Debtor's Second Post-Confirmation Amendment to her Chapter 13 Plan Debtor once again proposed to sell the real estate which the Debtor owns with her non-Debtor spouse at 9 W. Baseline Road in White Cloud, Michigan, the anticipated proceeds from which sale would complete or substantially complete the Debtor's Plan.
3. That Debtor has received and accepted an offer for the sale of the premises at 9 W. Baseline Road for a total sale price of \$80,000 and which will generate net proceeds for the Debtor of greater than \$36,000.00.
4. That the primary creditor remaining to be paid in this case is Automotive Finance Corporation, based on amended claim for an alleged deficiency after repossession and sale of collateral by that creditor.
5. That the claim of Automotive Finance Corporation is subject to disallowance in whole or in part due to failure of that creditor to give notice of the disposition of the collateral, in

violation of MCL 440.9611 and for the additional reason that the collateral was sold in a commercially unreasonable manner.

WHEREFORE, Debtor respectfully requests:

A. That this Honorable Court deny the Trustee's Motion to Dismiss the Chapter 13 Proceedings.

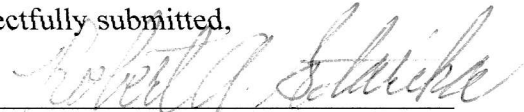
B. That in the alternative that the Trustee's Motion be adjourned for a sufficient period of time for the Debtor to consummate the sale of the property at 9 W. Baseline Road, White Cloud, Michigan, apply the proceeds to the Debtor's Plan and prosecute any appropriate objections to the claim of Automotive Finance Corporation.

C. That Debtor have such other and further relief as shall be just and equitable in the premises.

Dated: January 4, 2021

Respectfully submitted,

/s/


Robert A. Stariha (P29156)

Attorney for Debtor